

**IN THE CIRCUIT COURT OF PLEASANTS COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**BB LAND, LLC, a West Virginia Company,
and JB EXPLORATION 1, LLC, a
West Virginia Company,**

Plaintiffs,

vs.

**Civil Action No.: 18-C-2
Presiding: Judge Lorensen
Resolution: Judge Carl**

FILED IN OFFICE

AUG 07 2020

**MILLIE FARNSWORTH
CIRCUIT COURT CLERK
PLEASANTS CO WV**

**BLACKROCK ENTERPRISES, LLC,
a West Virginia Company, and
MICHAEL L. BENEDUM,**

Defendants.

**ORDER SETTING TRIAL AND PRETRIAL DATES AND PRETRIAL DEADLINES
AND DENYING JAY-BEE'S MOTION FOR ENTRY OF ORDER SCHEDULING
TRIAL DURING CALENDAR YEAR 2020**

This matter came before the Court this 7 day of August 2020 for scheduling and upon Jay-Bee's Motion for Entry of Order Scheduling Trial During Calendar Year 2020. On a prior day, the trial in this matter set for June 9, 2020 was continued¹. At the status hearing held June 5, 2020, conference was had regarding the trial dates in this matter, and "counsel represented that the parties would parties would confer regarding multiple two-week options for trial amenable to all counsel and parties' schedules, and, upon determination of those date options, conference would be had with the Pleasants County Circuit Clerk and Judge Sweeney to determine

¹ By Order Setting Trial and Pretrial Dates and Pretrial Deadlines entered March 13, 2020, the trial in this matter was previously set to commence on June 9, 2020.

courtroom availability, and with the undersigned to coordinate with his circuit court docket availability”. *See* Ord., 6/8/2020, p. 1.

Thereafter, on or about June 22, 2020, Plaintiffs filed Jay-Bee’s Motion for Entry of Order Scheduling Trial During Calendar Year 2020, averring that the Defendants could not agree to any of the available date windows obtained from the Circuit Clerk of Pleasants County in the calendar year 2020. *See* Pl’s Mot., p. 2. On or about July 8, 2020, Defendants filed Defendants’ Response in Opposition to Jay-Bee’s Motion for Entry of Order Scheduling Trial During Calendar Year 2020, detailing their scheduling conflicts with the proposed 2020 dates. *See* Pl’s Resp., p. 3. Additionally, Defendants detailed reasons they averred the case would not be ready for trial during calendar year 2020 and requested a trial date in the first part of 2021. *Id.* at 4.

Upon consideration of Jay-Bee’s Motion for Entry of Order Scheduling Trial During Calendar Year 2020, Defendants’ Response in Opposition to Jay-Bee’s Motion for Entry of Order Scheduling Trial During Calendar Year 2020, the Court’s circuit court docket and availability, and the Court’s own coordination with the Court in Pleasants County regarding courtroom availability, the Court finds it feasible to set the trial in this matter for a date in early 2021. For this reason, Jay-Bee’s Motion for Entry of Order Scheduling Trial During Calendar Year 2020 must be denied.

Further, for reasons appearing to the Court, the Court hereby ORDERS:

1. The trial in this matter shall be held **March 2, 2021** at 9:00 a.m. at the Pleasants County Courthouse, 301 Court Lane, St. Mary’s West Virginia. The trial is expected to take nine (9) trial days.
2. The final Pre-Trial Conference in this matter is set for **March 1, 2021** at 10:00 a.m. at the Pleasants County Courthouse, 301 Court Lane, St. Mary’s West Virginia.

3. At this time, with the setting of new trial and pretrial dates, the Court ORDERS the following pretrial deadlines:
4. The pretrial memorandum is to be filed no later than seven (7) days before the final pretrial conference. The memoranda must set forth the following:
 1. Statement of the Case
 2. Issues of Fact
 3. Issues of Law
 4. Proposed Stipulations
 5. Schedule of Exhibits
 6. List of Witnesses
 7. Pending Motions
 8. Motions *in Limine*
 9. All Proposed Instructions of Law
(Disk as well as hard copy shall be provided to the Court.)
 10. Requested *voir dire*
5. Schedule of Exhibits: The parties shall file and exchange a list of all proposed exhibits (including demonstrative) and shall make the exhibits available for viewing by counsel no later than 14 days prior to the final pre-trial conference. Exhibits shall be individually identified and given a unique identifying number. General designations such as "Records from Doctor Jones" are not sufficient. The parties shall mark all exhibits by use of standard exhibit stickers and provide a list to the Court and to counsel. Failure to properly identify, mark or provide an exhibit is grounds for exclusion of the exhibit at trial.
6. Video depositions: If a video deposition is to be used, all parties must be prepared to argue objections at the final pre-trial conference. Thereafter, the proponent of the video deposition shall have the video edited to reflect the court's rulings. In addition, the proponent of the video deposition must have a videographer at trial.
7. Jury Instructions: Counsel should be prepared to discuss jury instructions at the final pre-trial conference. Late instructions will be considered only if justified by good cause.

8. The dates set by the court are final and may be modified only upon written motion, a statement as to whether the modification is agreed to or not and by order of the court. Any party requesting a hearing must furnish the court with three dates for which all counsel and self-represented parties are available or set forth what efforts were exercised to obtain such dates. While agreements among counsel or self-represented parties regarding any matter pertaining to the case are encouraged, these agreements are not binding on the court unless confirmed by order. No additional evidence developed as a result of deviations from the above schedule will be admissible at trial unless justice requires. Any party seeking a continuance must do so in writing.
9. It is hereby ADJUDGED and ORDERED that Jay-Bee's Motion for Entry of Order Scheduling Trial During Calendar Year 2020 is hereby DENIED.
10. The Clerk is directed to enter this Order as of the date first hereinabove appearing, and send attested copies to all counsel of record, as well as to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 7 day of August 2020.



JUDGE MICHAEL D. LORENSEN
JUDGE OF THE WEST VIRGINIA
BUSINESS COURT DIVISION

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.
Attest: Millie Farnsworth, Circuit Clerk
Pleasants County of West Virginia

